

MINUTES OF THE MEETING
OF THE CITY COUNCIL OF THE
CITY OF BURLINGTON
November 7, 2006
7:30 P.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on November 7, 2006, at 7:30 p.m.

Mayor Stephen M. Ross presided

Councilmembers present: Mayor Ross, Councilmembers Jones, Huffman, Starling and Wall

Councilmembers absent: None

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

INVOCATION: Councilmember Don Starling

PROCLAMATION: Arbor Day - November 8, 2006

MINUTES

Mayor Ross called for approval of the City Council minutes of the meeting of October 17, 2006.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to approve the minutes of the meeting held on October 17, 2006.

ADD-ON TO CONSENT AGENDA: Amend Phase II Stormwater Permit

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to add the amendment to Phase II Stormwater Permit to the consent agenda.

ADOPTION OF AGENDA

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to adopt the agenda with the add on.

CONSENT AGENDA:

- A) To approve Notices of Intent to adopt resolutions authorizing the lease of City-owned surplus real property to Cingular Wireless PCS. Cingular Wireless PCS, a cellular provider, has requested to renew existing tower leases at #4 Fire Station and Joe E. Davidson Park.

NOTICE OF INTENT BY THE CITY OF BURLINGTON TO ADOPT A RESOLUTION AUTHORIZING THE LEASE OF CITY-OWNED SURPLUS REAL PROPERTY TO CINGULAR WIRELESS PCS

PURSUANT to North Carolina General Statutes 160A-272, the City of Burlington, North Carolina, intends to adopt a resolution authorizing the lease of City-owned surplus real property located at the intersection of US Highway 70 and International Drive, known as the Number Four (4) Fire Station, to Cingular Wireless PCS for the purpose of providing cellular and wireless internet service and said property proposed to be leased being more particularly described as follows:

BEGINNING at an "X" chiseled in concrete at the intersection of the southern right-of-way of US Highway 70 and the western right-of-way of International Drive; thence along the right-of-way of International Drive S 13-46-57 W 122.57 feet to an existing iron pipe; thence leaving said right-of-way N 88-49-03 W 93.28 feet to a point; said point being the point of beginning for the new lease area; thence N 88-49-03 W 17.34 feet to a point; thence N 01-21-54 B 1.75 feet to a point; thence N 88-38-15 W 17.20 feet to a point; thence N 01-21-54 E 22.80 feet to a point; thence N 87-34-43 W 3.80 feet to a point; thence N 02-25-17 B 39.40 feet to a point; thence S 87-55-59 B 21.00 feet to point; thence S 02-25-17 W 39.52 feet to a point; thence S 87-34-43 E 17.59 feet to a point; thence S 01-57-38 W 23.86 feet to the point and place of beginning for the new lease area containing 1,638 square feet or 0.04 acres more or less.

In accordance with North Carolina General Statutes 160A-272, the City of Burlington, upon confirmation by the City Council of the City of Burlington at its meeting on November 21, 2006, intends to adopt a resolution authorizing the lease of the above-described surplus real property to Cingular Wireless PCS, for a

period of five years with an option to renew for a term of five years.

Cingular Wireless PCS proposes to use the Leased Property for the purpose of maintaining and operating a communication facility and any and all uses incidental thereto.

Compensation to the City of Burlington shall be a rental fee of \$26,542.23 per year for the initial five years. The rent for the renewal term shall be \$31,850.68 per year.

NOTICE OF INTENT BY THE CITY OF BURLINGTON TO ADOPT A RESOLUTION
AUTHORIZING THE LEASE OF CITY-OWNED SURPLUS REAL PROPERTY TO
CINGULAR WIRELESS PCS

PURSUANT to North Carolina General Statutes 160A-272, the City of Burlington, North Carolina, intends to adopt a resolution authorizing the lease of City-owned surplus real property located at Rural Retreat Road, known as Joe C. Davidson Park, to Cingular Wireless PCS for the purpose of providing cellular and wireless internet service and said property proposed to be leased being more particularly described as follows:

COMMENCE at an iron pipe found located on the Northerly margin of the Rural Retreat Road right-of-way, said iron pipe marking the Southwest corner of The City of Burlington property as described in Deed Book 662 at Page 1 in the aforesaid public registry; thence N10°24'40"E 1085.64 feet to an iron pipe found on the common line of the aforementioned City of Burlington property and the Michael A. Taylor property as described in Deed Book 536 at Page 321 in the aforesaid registry; thence S27°28'16"E 508.87 feet to an iron pin found marking the Northeast corner of the Existing Lease Area, and Northeast corner being the POINT OF BEGINNING; thence S11°43'04"E 40.03 feet to an iron pin found marking the Southeast corner of the Existing Lease Area; thence S78°25'13"W 49.93 feet to an iron pin found marking the Southwest corner of the Existing Lease Area; thence N11°49'39"W 39.94 feet to an iron pin found marking the Northwest corner of the Existing Lease Area; thence N78°18'48"E 50.01 feet to the POINT OF BEGINNING and containing 1,998 square feet as shown on a survey prepared by Edward L. Killough, NCPLS L-1519 dated January 7, 2005.

In accordance with North Carolina General Statutes 160A-272, the City of Burlington, upon confirmation by the City Council of the City of Burlington at its meeting on November 21, 2006, intends to adopt a resolution authorizing the lease of the above-described surplus real property to Cingular Wireless PCS, for a

period of five years with an option to renew for a term of five years.

Cingular Wireless PCS proposes to use the Leased Property for the purpose of maintaining and operating a communication facility and any and all uses incidental thereto.

Compensation to the City of Burlington shall be a rental fee of \$17,000.00 per year for the initial five years. The rent for the renewal term shall be \$20,400.00 per year.

- B) To authorize the Mayor to sign a Quitclaim Deed conveying air rights to Carolina Hosiery Mills, Inc. The property adjoins North Church Street (Highway 70) and Graham-Hopedale Road.
- C) To authorize the Mayor to sign a Deed of Partial Release for Linda Franklin Bigelow. The property is located at 926 Apple Street.
- D) To approve a final plat of Phase 1, Waterfalls Subdivision. The property is located on Longpine Road approximately 715 feet northwest of Evergreen Lane as shown on plans by Fleming Engineering, Inc., dated September 27, 2006, and containing 46 lots.
- E) To approve a final plat of Phase 1, Section 3, of Glenmoor Townhomes, Mackintosh on the Lake Development (Section J2). The property is located on Gilchrist Drive south of Interstate 85/40 as shown on plans by Alley, Williams, Carmen and King, Inc., dated October 5, 2006, and containing three lots.
- F) To approve a final plat of Phase 7, Lots 1 through 8 and Lots 35 through 37, of Abbington Place Townhome Development. The property is located at the intersection of University Drive and Abbington Way as shown on plans by Fleming Engineering, Inc., dated September 27, 2006.
- G) To approve a final plat of the Gospel Tabernacle United Holiness Church Subdivision. The property is located on Fulton Street approximately 550 feet south of Apple Street as shown on plans by Boswell Surveyors, Inc., dated September 7, 2006, and containing two lots.

H) Budget Amendment 2007-18 - 2005-2006 Projects Carried Forward

BA2007-18

GENERAL FUND

Increase Revenues:

010-39398-0001 Approp. Restr. Fund Balance \$153,867

Increase Expenditures:

Finance

010-44441-1900 Professional Services \$ 7,500

IT

010-46470-7400 Equipment 47,016

Legal

010-47471-4503 Contracted Services 12,000

010-47471-4504 Contracted Services 800

010-47471-5300 Dues & Subscriptions 15,000

010-47471-5428 Insurance Claims/Settlements 3,000

Police

010-51522-7400 Equipment 18,140

PW-Equipment Services

010-55564-7200 Buildings 18,000

PW-Streets

010-56561-7300 Capital - Other Improvements 6,777

Recreation

010-62626-7300 Capital - Other Improvements 11,170

010-62626-7400 Equipment 14,464

WATER & SEWER FUND

Increase Revenues:

030-30398-0002 Approp. Restr. Fund Balance \$442,624

Increase Expenditures:

Administration

030-66661-3300 Departmental Supplies 300

030-66661-7400 Equipment 1,700

W&S Lines

030-70700-1900 Professional Services 41,630

030-70700-7300 Capital - Other Improvements 138,704

Water Line Maintenance

030-72702-1900 Professional Services 20,000

030-72702-7300 Capital - Other Improvements 180,000

W&S Plants Maintenance

030-80800-1900 Professional Services 10,000

Water Sources Protection

030-82802-1900 Professional Services 12,924

Ed Thomas Water Plant		
030-83803-1900	Professional Services	2,500
Mackintosh Water Plant		
030-84804-1600	Maintenance & Repair Eqpmt.	20,780
030-84804-1900	Professional Services	2,500
East Burlington Waste Water Treatment Plant		
030-85805-7200	Buildings	11,586

I) Budget Amendment 2007-19 - Over-sizing Water and Sewer Lines

BA2007-19

Increase Revenues:

030-39398-0000	Appropriated Fund Balance	\$250,000
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Increase Expenditures:

030-74704-7300	Capital - Other Improvements	\$250,000
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J) Budget Amendment 2007-20 - Insurance Reimbursement - Damage at Lake Mackintosh

BA2007-20

Increase Revenues:

030-31200-0003	Insurance Refunds	\$ 26,454
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Increase Expenditures:

030-90811-7200	Buildings	\$ 26,454
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K) To authorize the Mayor to make a request to the North Carolina Department of Environment and Natural Resources to amend the City of Burlington's Phase II Stormwater Permit to comply with N.C. Session Law 2006-246 (SB1566).

Councilmember Wall asked to be recused from Consent Agenda Item E.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to allow Councilmember Wall to be recused from Consent Agenda Item E.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve the foregoing consent agenda except for Item E. Councilmember Wall abstained.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve Item E of the Consent Agenda.

PUBLIC HEARING:

ITEM 2: AMEND SOUTHWEST/WESTERN LOOP FUTURE LAND USE MAP
(Map file is located in City Clerk's office - "*Southwest/Western Loop Planning Area Future Land Use Map*".)

Mayor Ross announced that a public hearing had been scheduled to consider amendments to the Southwest/Western Loop Future Land Use Map.

Planning Director Robert Harkrader stated that the public hearing would be to consider changes to the future land use component of the Western Loop Corridor plan. Mr. Harkrader stated that this plan was first considered at the City Council Retreat last February and subsequently a public hearing was held on April 4, 2006. He explained that following the public hearing the plan was referred to the Planning Commission which endorsed it with two exceptions. He stated that the two exceptions were for the land use on Danbrook Road and portions of Whitesell Drive in which the Planning Commission recommended that Whitesell be zoned Commercial and that Danbrook be zoned Planned Community Mixed Use. Mr. Harkrader stated that it would be appropriate to hear citizens' comments and that staff would be available to answer any questions.

City Manager Harold Owen asked Mr. Harkrader to review the six areas and explain how staff came to this conclusion and what led to the identification of these areas.

Mr. Harkrader stated that these areas or "hotspots" were the areas that at the Council Retreat were presented as the proposed land use within the Western Loop Corridor area and are identified on the map. He stated that these areas were considered at the April 4, 2006, public hearing.

Councilmember Jones stated that based on City Council input, public hearings and Planning and Zoning Commission input, the Council and Planning and Zoning Commission agreed on areas 1, 2, 3, and 6. He stated that on the second map, areas 4 and 5 were recommended for changes by the Planning and Zoning Commission.

Mr. Charles Bateman, representing Wakefield Development Company, stated that Wakefield had a significant investment in a piece of property within the quadrant that was formerly the Moody property. He pointed out that Wakefield had purchased the property to make available a site for a new elementary school located in Area 4 as being shown as light or medium residential. He listed the following concerns in Section 4:

- School access would need to be protected and what uses would be placed around the school,
- Utilities of the remaining land governed by a rock quarry south which limits the desirability for single-family residential uses and that there are limited mixed uses which would be appropriate in that quadrant.

Mr. Bateman proposed the following:

- Reserve approximately 25 acres immediately adjacent to the school site for high density residential.
- Approximately 25 acres of the parcel extending down University Drive and to the rear of properties designated as Planned Community Mixed Use.
- Approximately 10-acre parcel located on the north side of Bonnar Bridge Parkway as Employment Center/Office type use.

Mr. Bateman stated that anything built in this area would have to come back to the Council for consideration for Conditional Use zoning.

Mr. Bateman stated that this plan would be consistent for the area and would be economically viable for his client. He stated that the proposal was a good fit for the City and would allow the property owner to make appropriate use of its property and would allow for substantial and attractive mixed-use development.

Mr. Bateman stated the following concerns in planning Zone 4 as it relates to Danbrook Road and recommended the following:

- Designate the front portion of property located on Macintosh Drive and Danbrook Road to a depth of 475 feet from Danbrook Road to the south to Office-Institutional use.
- Future Land use designation to be Employment Center/Corporate Park.

Mr. Bateman stated that the area on Danbrook deserved a consistent zone that would be attractive and that would be

consistent with substantial development. Mr. Bateman introduced Mr. Billy Sutton, Wakefield Development Company.

Mr. Matt Kirkpatrick asked Mr. Harkrader to explain what would be included under Planned Community Mixed Use and to define commercial development. He spoke in favor of the Planned Employment Center.

Mr. Harkrader stated that Planned Community Mixed Uses allowed multifamily, townhouses, condominiums, office and some commercial development that ideally would be incorporated as part of an over-all coordinated mixed use plan and would be implemented primarily through Conditional zoning.

Mr. Richard Franks expressed concerns about the possibility of a major emergency on the south side of the Interstate. He pointed out the new school being built, and stated that if the intersection of University Drive and St. Mark's Church Road continued to develop the congestion would also continue. He stated that somewhere within Zones 4, 5 or 6 that the City Council should say that this was an area that would need some type of emergency facility such as a fire station. Mr. Franks also stated that the City Council needed to look at this area and set aside some green space. He asked Wakefield to dedicate a strip of land next to the school for green space and to allow the school to develop some type of outdoor education facility.

City Manager Owen stated that Wakefield had allocated a section of land for a public service facility south of the Interstate for a potential public safety sub-station.

Mr. Frank Longest, representing parties who have an interest in one of the parcels in Zone 4, asked if the parcel would be one commercial use.

Councilmember Jones replied that there were five parcels with different owners and that Council was not considering one unified plan.

Mr. Longest stated that he wanted to make sure that each parcel would stand on its own merit.

Ms. Rhonda Custer asked that once the land use was adopted, how long before the Council could change it again.

Mayor Ross replied no specific time.

Councilmember Huffman stated that the Council expected property owners would be coming forward with requests for rezoning and that requests would be compatible with the this plan.

Upon motion by Councilmember Starling, seconded by Councilmember Jones, it was resolved unanimously to close the public hearing.

Upon motion by Councilmember Jones, seconded by Councilmember Huffman, it was resolved unanimously to adopt the Land Use Plan as follows:

- Sections 1, 2, 3, and 6 - As recommended by Planning and Zoning Commission;
- Section 5 - As recommended by Planning & Zoning Commission - Limited Commercial; and,
- Section 4 - As recommended by Mr. Bateman - Employment Center Corporate Park along Danbrook Road, Planned Community Mixed Use and High Density Residential.

06-34

RESOLUTION TO AMEND SOUTHWEST/WESTERN LOOP FUTURE LAND USE MAP

WHEREAS, on March 6, 1996, the City of Burlington adopted *The Southwest/Western Loop Future Land Use Map* indicating development and land use strategies in the southwest and Western Loop areas of the City and its extraterritorial jurisdiction; and,

WHEREAS, on June 3, 2003, the City of Burlington amended the Land Use Map because of changes in development and land uses in the area; and,

WHEREAS, with input from property owners in the southwest area, members of the Burlington Planning and Zoning Commission and City staff, the Burlington City Council desires once again to amend elements of the *Southwest/Western Loop Future Land Use Map*; and,

WHEREAS, the City Council held a public hearing to consider changes to the Southwest/Western Loop Area Plan on April 4, 2006; and,

WHEREAS, the amended *Southwest/Western Loop Future Land Use Map* will offer an up-to-date guide for City staff and Council when considering rezoning applications. (Map file is located in City Clerk's office - "Southwest/Western Loop Planning Area Future Land Use Map".)

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NORTH CAROLINA:

Section 1: That elements of the *Southwest/Western Loop Planning Area Future Land Use Map* are hereby amended as follows:

- a) Sections 1, 2, 3, and 6 - As recommended by Planning and Zoning Commission;
- b) Section 5 - As recommended by Planning & Zoning Commission - Limited Commercial; and,
- c) Section 4 - As recommended by Mr. Charles Bateman, Attorney at Law - Employment Center Corporate Park along Danbrook Road, Planned Community Mixed Use and High Density Residential.
- d) The foregoing will be shown on the "*Southwest/Western Loop Planning Area Future Land Use Map*," a copy of which is on file in the City Clerk's office.

Section 2: That this map shall be utilized as a guide in making land use decisions in the Southwest/Western Loop area and shall supersede the previous Southwest/Western Loop Future Land Use Map.

Section 3: That this resolution shall take effect upon passage.

Councilmember Starling expressed his appreciation for the work contributed by the Planning and Zoning Commission.

Mayor Ross stated that he also appreciated the work contributed by the Planning and Zoning Commission and thanked Mr. Franks for his comments.

NEW BUSINESS:

ITEM 3: CO-SPONSORSHIP - PHASE 1, MASTER PLAN - BURLINGTON DOWNTOWN CORPORATION

Mayor Ross announced that the City Council would consider approving the following items as requested by the Burlington Downtown Corporation:

- A. To co-sponsor the development of a preliminary master plan concept; specific content to be mutually agreed upon and to agree to fund 50% of the Phase 1 effort with a maximum City expenditure of \$20,000. Burlington Downtown Corporation is responsible for the remainder of the funds.

B. To appoint a member of Council to the Burlington Downtown Corporation Board as an ex-officio member.

Mr. Rob Malburg, President, Burlington Downtown Corporation, requested approval for the creation and development of a master plan for the Burlington Downtown District. He stated that the Burlington Downtown Corporation was looking for a co-sponsor and funding of a maximum of \$20,000 by the City to be matched by the Burlington Downtown Corporation to fund Phase One of this plan. Mr. Malburg also requested that City Council appoint a member from the Council to sit on its board as an ex-officio member.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to approve the Burlington Downtown Corporation plan.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to appoint Councilmember Starling to the Burlington Downtown Corporation Board as an ex-officio member.

ITEM 4: INSPECTIONS AGREEMENT - ALLEY, WILLIAMS, CARMEN AND KING, INC.

Mayor Ross announced that the City Council would consider approval of an Inspections Agreement between the City of Burlington and Alley, Williams, Carmen and King, Inc. The agreement is for the engineering firm to perform building plan reviews and Level III building inspections. Funds were budgeted in the current fiscal year for the Inspections Agreement.

Councilmember Don Starling asked to be recused from consideration of Item 4.

Upon motion by Councilmember Wall, seconded by Councilmember Jones, it was resolved unanimously to allow Councilmember Starling to be recused from Item 4.

Upon motion by Councilmember Huffman, seconded by Councilmember Jones, it was resolved unanimously to approve the agreement. Councilmember Starling abstained.

PUBLIC COMMENT PERIOD:

There were no public comments.

ADJOURN:

Upon motion by Councilmember Jones, seconded by Councilmember Starling, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk